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C O N F I D E N T I A L SECTION 01 OF 02 ABUJA 001357

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TAGS: [BEXP](#) [ECPS](#) [ETRD](#) [PGOV](#) [NI](#)

SUBJECT: CODEM ADVOCACY EFFORT STIFLED BY ALLEGED
CORRUPTION INVOLVING MINISTRY OF COMMUNICATIONS

Classified by Charge Dawn Liberi. Reasons 1.5 (b) and (d)

1. (SBU) Summary. Since spring 2003 Mission Nigeria has been pursuing advocacy in behalf of CODEM Systems, Inc., a New Hampshire-based telecommunications firm. CODEM has tendered bids on three separate contracts, the aggregate value of which approximates \$80 million. Its proposal to Nigeria's Ministry of Communications involves provision of radio monitoring stations and a spectrum monitoring system, a \$35 million package. CODEM alleges that the Ministry has persuaded President Obasanjo to award the contract to CODEM's German rival despite its inferior equipment and questionable financial package. Econ Counselor briefed the Director of the Budget and Price Monitoring Unit at the Presidency on August 1 and requested that it conduct due diligence. We hope that our intervention will pay off. End summary.

2. (C) Background. The bids for the project involving the Communications Ministry were opened on November 16, 2001. The two companies in the lead were CODEM and its German rival, Ferrostaal Nigeria, Ltd./Rhode & Schwarz. CODEM quoted its bid in U.S. dollars; Ferrostaal, in euros. CODEM asserts that when the bids were open, Ferrostaal's original bid in euros plus \$5,225,928 on an unquoted part of the project raised its bid about a million dollars more than CODEM's. In what CODEM purports to be an undated document from the Ministry of Communications (MC/ST.0247/Vol 1 that may have been released after March 2002), the latter recommended to President Obasanjo that CODEM be awarded the contract because its proposal was "more elaborate and properly defined."

3. (C) Irregularities. Notwithstanding the recommendation above, CODEM's Lagos-based agent gave us a copy of a letter purporting to be from the State House, Abuja, dated June 24, 2003 (PRES/81/36-1/93), which refers to the document mentioned immediately above but indicates that it was dated May 27, 2003. This document carries apparently the signature of former Minister of Communications Haliru Mohammed. This document, which recommends that the contract be awarded to Ferrostaal is strange on two counts. One, the document may have been signed by the minister five days after the cabinet of the first Obasanjo administration was dissolved. Presumably, Haliru Mohammed had no standing as a minister after the cabinet was dissolved on May 22. Second, Ferrostaal's quotation appears in dollars in this document, not euros as originally quoted. Despite these and other anomalies, a written annotation on the last page of the document suggests that Obasanjo approved the recommendation to award the contract to Ferrostaal on June 24.

4. (SBU) Ferrostaal. Apart from proposing older technology at higher cost than has CODEM, Ferrostaal seems singularly ill suited to execute the contract. Nigeria's Financial Standard of July 21 reported that the National Council on Privatisation has uncovered an over-payment of \$100 million to Ferrostaal for work on Nigeria's Aluminum Smelting Company (ALSCON). During an August 1 discussion with a key official of the Bureau for Public Enterprises (BPE), Econ Counselor was told that BPE had recently rejected Ferrostaal's bid for ALSCON, which BPE seeks to privatize, because Ferrostaal attained merely 55 of BPE's minimum 70 percent assessment benchmark to be designated core investor. Ferrostaal not only could not produce the \$5 million bond; its check of \$15,000 that was to have been its bid qualification bond bounced. To top it off, the Financial Standard of August 4 indicated that "competent Presidency sources said one of ALSCON's foreign partners, Ferrostaal AG of Germany, with about 7.5 percent shareholding [in ALSCON], has not paid any tax on more than \$3.1 billion (about N40.3 billion) paid to it by the government for construction of the

plant." The Standard added that Ferrostaal owes Nigeria N24.35. The BPE official with whom we discussed this matter on August 1 confirmed the accuracy of the Financial Standard's reports. We have also read that German judicial authorities are investigating Ferrostaal and its CEO for alleged corruption involving Nigeria.

15. (C) Beneficiaries. CODEM's Lagos-based agent believes that that Vice President Atiku Abubakar is siding with Ferrostaal in the affair. Along with unidentified cronies, the VP is said to be working the issue through a Professor Barzindo, an Islamic scholar who was permanent secretary at Communications until recently but is now permsec at Transport. Since the VP is most probably constituting a war chest in anticipation of the 2007 presidential elections, for Atiku solidarity committee apparently are being established, it should shock no one that he might find Ferrostaal congenial.

16. (C) State of play. During our August 1 meeting with Dr. Oby Ezekwesili, the director of the price monitoring office at the Presidency, she said she has yet to act on a recommendation that the contract be award to Ferrostaal or CODEM. She said it is possible that the Ministry of Communications incorrectly recommended Ferrostaal to President Obasanjo, bypassing the Federal Executive Council in the process. But she added that if Obasanjo had approved the award, she would have seen a presidential directive, which, she said, would have read: approved subject to due process certification. She went on that she has not seen such a directive.

17. (C) Mixed signal. Notwithstanding Ezekwesili's assertion that the Federal Executive Council may have been bypassed, on August 8, CODEM's Lagos-based agent handed us a copy of a document classified secret (EC 2003/August 2003) with a header that reads "this document is the property of the Federal Executive Council." The "memorandum by the Minister of Communications" specifies that "the purpose of this memorandum is to seek Council's ratification of the anticipatory approval granted by Mr. President for the award of contract for the supply, installation, and commissioning of state of the art international radio monitoring stations (IRMS) equipment and national spectrum management system (NSMS) to Messrs. Rhode & Schwarz/Ferrostaal Nig. Ltd at a total contract sum of \$29, 524,260.30 (off shore) and N384,681,190.61 (note: about three million USD) (on shore)." Paragraph 14 of the memorandum reconfirms these figures, but notes that they "exclude customs duties and other clearing charges" that are not elsewhere specified.

18. (C) Comment. We are inclined to accept Ezekwesili's word, given the help she gave us to secure the \$49 million contract for Motorola earlier this year, but CODEM's Lagos-based agent affirms that she is deeply in the Vice President's camp on this issue. CODEM's agent may be right, for Econ Counselor recalls that Ezekwesili was rather abrupt in her affirmations with respect to the contract in question on August 1. We nonetheless will give her more time to look into CODEM's allegations that the Communications Ministry has perpetrated "grave irregularities" directly or through third parties, to see what response our representation will have provoked. Should we not hear news favorable to CODEM by the end of August, we will again raise the issue with Ezekwesili at that time. We welcome views on the appropriateness of the Charge raising the matter with the Minister of Communications and the President at the earliest opportunity. We continue to hope that our advocacy will pay off.

LIBERI